



WISCONSIN

DEPARTMENT OF WORKFORCE DEVELOPMENT

Division of Economic Support
Bureau of Welfare Initiatives

**TO: Economic Support Supervisors
Economic Support Lead Workers
Training Staff
FSET Administrative and Provider Agencies
Child Care Coordinators
W-2 Agencies**

BWI OPERATIONS MEMO

No.: 99-02

File: 7110

Date: 01/05/99

Non W-2 ☐ W-2 ☐ CC ☒

PRIORITY: High

**FROM: Stephen M. Dow
Program Implementation Team
Policy Analysis and Program Implementation Section**

SUBJECT: CHILD CARE CHANGES TO:
1. CRIMES LISTS
2. BACKGROUND INFORMATION DISCLOSURE (BID) FORM
**3. DEPARTMENT OF JUSTICE (DOJ) - WISCONSIN CRIMINAL HISTORY
RECORD REQUEST FORM**

CROSS REFERENCE: BWI Operations Memo 98-83

See the web site <http://www.dhfs.state.wi.us/caregiver/index.htm> for updated forms, rules, regulations, frequently asked questions (FAQ), and other background data. The forms are in portable document format (pdf) and available as needed or as camera copies.

EFFECTIVE DATE: Immediately

PURPOSE

This memo will provide copies of the revised Crimes List, Background Information Disclosure (BID) form and the DOJ - Wisconsin Criminal History Record Request forms. There are also instructions on how to complete the "Request Purpose" fields on the DOJ - Wisconsin Criminal History Record Request form.

BACKGROUND

The Crimes List has been revised and as a result the BID form has been updated to reflect the new Crimes List. The DOJ - Wisconsin Criminal History Record Request form has been changed in order to clarify how the "Request Purpose" field is to be completed.

CRIMES LIST

Some of the crimes identified on the Crimes List have either changed categories or been taken off the List completely. Begin using the new Crimes List **immediately**.

There is no requirement to contact new applicants who have been denied certification because of a crime that permanently barred certification or barred certification with rehabilitation under the previous Crimes List. It is agency discretion to proceed with a rehabilitation review if it is no longer required according to the revised Crimes List.

There is no requirement to contact providers that existed prior to October 1, 1998 who had been adversely effected by having a certification revoked or having to participate in the rehabilitation review process in order to remain certified under the previous Crimes List when the status of the crime has changed on the revised Crimes List. It is agency discretion to proceed with a rehabilitation review if it is no longer required according to the new Crimes List.

Even though the status of the crime may have changed on the new Crimes List, the crime may still substantially relate to the activity of caring for children. It is agency discretion to contact these individuals with information on the effect of the revised Crimes List on their situation if the eligibility status of the applicant or the provider has changed.

BACKGROUND INFORMATION DISCLOSURE (BID) FORM

As a result of revisions made to the Crimes List, the BID form has also been updated. The BID form is available at <http://www.dhfs.state.wi.us/caregiver/index.htm>.

DEPARTMENT OF JUSTICE (DOJ) - WISCONSIN CRIMINAL HISTORY RECORD REQUEST FORMS

Both the Wisconsin Criminal History Single Name Record Request and the Wisconsin Criminal History Multiple Name Record Request forms have been revised. The "Request Purpose" field has been revised on both of these forms. In order to have the complete caregiver background check done on a person for day care certification, the box for "Child Day Care - Caregiver Background Check" must be checked **and** the "Certifying Agency #" must be completed. There is a table with this memo indicating the appropriate agency number for each agency that is involved in the caregiver background check process for the purposes of day care certification.

It is very important that the correct certifying agency number is used when completing the DOJ record request form. The certifying agency number is used by DOJ to verify that a juvenile check must be run. The certifying agency number is used by DHFS to send their background history check to the address associated with the number. DHFS has not yet begun to e-mail their part of the background check. Currently they are mailing this information to the address associated with the agency number. DHFS does not plan to e-mail this information for a minimum of six months. During that time, the DHFS checks will continue to be mailed.

DOJ will send back all record requests that have the "Child Day Care - Caregiver Background Check" box checked, but neither a facility number nor a certifying agency number is listed. The facility number is the number a licensed group center or licensing specialist must complete in order to receive a completed caregiver background check. For day care certification purposes, only the "Certifying Agency #" is completed.

Make sure that the mailing address, e-mail address or phone and fax number listed for your agency is accurate. If the information is incorrect or you want to add an e-mail address, call Rebecca Brueggeman at 608-266-9703 with the correct information.

DWD 55.11 Crimes table. (1) PURPOSE. The purpose of the table in this section is to provide the list of nonrehabilitative serious crimes, rehabilitative serious crimes, and less serious crimes required by s. 48.685(7)(a) and (b), Stats. To the greatest extent possible, this section should be interpreted in a manner consistent with the crimes list established as Appendix A to s. HFS 12.11.

NOTE: This list reflects Wisconsin's current crime statutes as of 9/16/98. If a person is convicted of a crime not listed here, the substantial relatedness test must be applied to determine whether the nature of the act or offense has applicability in considering eligibility for regulatory approval, employment, contracting or nonclient residency with an entity. Additionally, the county agency must determine whether the nature of the act or offense for a crime under which a person is convicted is comparable to a crime listed and if so, it should apply the sanction associated with that crime even though the crime under which the person is convicted may be a lesser crime.

KEY

Permanent bar: Conviction means permanently barred from all programs.

Bar w/rehab: Conviction means barred from all programs unless rehabilitation has been demonstrated.

Spouse: Spouse of person convicted was victim of the crime.

5 years: Conviction means barred for 5 years from time crime is committed, then the person must demonstrate that he or she has been rehabilitated.

(F): Program sanction is for a felony conviction only.

(M): Program sanction is for a misdemeanor conviction.

WIS. STATS.	CRIME (F = Felony; M = Misdemeanor)	PROGRAM SANCTION
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Chapter 49 - Public Assistance

49.49	Medicaid fraud (F or M)	Bar w/rehab
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Chapter 346 - Rules of the Road

343.63	Operating vehicle while intoxicated (OWI) (F)	
	- with passenger under age 16	Bar w/rehab
	- 3rd or greater offense	Bar w/rehab
346.62(4)	Reckless driving, causing great bodily harm (F)	Permanent bar
346.67	Hit and run: failure to perform duty upon striking a person or attended vehicle (F or M)	Bar w/rehab

Chapter 940 - Crimes Against Life and Bodily Security

940.01	1st degree intentional homicide (F)	Permanent bar
940.02	1st degree reckless homicide (F)	Bar w/rehab
940.03	Felony murder (F)	Bar w/rehab
940.05	2nd degree intentional homicide (F)	Bar w/rehab
940.06	2nd degree reckless homicide (F)	Bar w/rehab
940.07	Homicide by negligent control of vicious animal (F)	Bar w/rehab
940.08	Homicide by negligent handling of dangerous weapon, explosives or fire. (F)	Bar w/rehab

940.09	Homicide by intoxicated use of vehicle or firearm (F)	Bar w/rehab
940.12	Assisting suicide (F)	Bar w/rehab
940.19(1)	Battery (M -domestic)	Bar w/rehab
940.19(2)-(6)	Battery (F)	Bar w/rehab
940.195	Battery to an unborn child (F or M)	Bar w/rehab
940.20	Battery - special circumstances (F)	Bar w/rehab
940.203	Battery or threat to a judge (F)	Bar w/rehab
940.205	Battery or threat to Department of Revenue employe (F)	Bar w/rehab
940.207	Battery or threat to Department of Workforce Development or Department of Commerce employe (F)	Bar w/rehab
940.21	Mayhem (F)Bar w/rehab	
940.22(2)	Sexual exploitation by therapist - sexual contact (F)	Bar w/rehab
940.22(3)	Sexual exploitation by therapist - duty to report (F)	Bar w/rehab
940.225(1)	1st degree sexual assault (F)	Permanent bar
940.225(2)	2nd degree sexual assault (F)	Permanent bar
940.225(3)	3rd degree sexual assault (F)	Permanent bar
940.225(3m)	4th degree sexual assault (M)	Bar w/rehab
940.23	Reckless injury (F)	Bar w/rehab
940.285 (2)(b)1 or 2	Abuse of vulnerable adults(F)	Permanent bar
940.285 (2)(b)3, 4, or 5	Abuse of vulnerable adults(F or M)	Bar w/ rehab
940.29	Abuse of residents of a penal facility (F)	Permanent bar
940.291	Law enforcement officer - failure to render aid (M)	Bar w/rehab
940.295	Abuse/neglect of a patient or resident (F)	Permanent bar
940.295	Abuse/neglect of a patient or resident (M)	Bar w/rehab
940.30	False imprisonment (F)	Bar w/rehab
940.305	Taking hostages (F)	Bar w/rehab
940.31	Kidnaping (F)	Bar w/rehab
940.32	Stalking (F or M)	Bar w/rehab
940.43	Intimidation of witnesses (F or M)	Bar w/rehab

940.45	Intimidation of victims (F or M)	Bar w/rehab
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Chapter 941 - Crimes Against Public Health and Safety

941.20	Endangering safety - dangerous weapon (M)	Bar w/rehab
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941.20(2)	Endangering safety - dangerous weapon, discharge weapon into vehicle/building (F)	Bar w/rehab
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941.20(3)	Endangering safety - dangerous weapon, discharge weapon from vehicle (F)	Bar w/rehab
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941.21	Disarming a peace officer (F)	Bar w/rehab
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941.235	Carrying a firearm in public building (M)	Bar w/rehab
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941.26	Sale, possession, use or transport of machine guns or certain other weapons (F)	Bar w/rehab
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941.28	Possession of short barreled shotgun/rifle (F)	Bar w/rehab
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941.29	Possession of firearm (F)	Bar w/rehab
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941.296	Use or possession of a handgun and armor-piercing bullet during crime (F)	Bar w/rehab
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941.298	Sale, delivery or possession of firearm silencer (F)	Bar w/rehab
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941.30	Recklessly endangering safety (F)	Bar w/rehab
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941.31	Possession of explosives (F)	Bar w/rehab
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941.315	Possession, distribution or delivery of nitrous oxide(F)	Bar w/rehab
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941.32	Administering dangerous or stupefying drug (F)	Bar w/rehab
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941.327	Tampering with household product (F)	Bar w/rehab
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941.38 (2)	Criminal gang member, solicit child (F)	Bar w/rehab
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941.38 (3)	Criminal gang member solicitation and contact (F)	Bar w/rehab
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Chapter 942 - Crimes Against Reputation and Civil Liberty

942.08	Invasion of privacy (M)	Bar w/rehab
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Chapter 943 - Crimes Against Property

943.01	Damage to property (F)	Bar w/rehab
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943.011	Damage or threat to property of witness (F)	Bar w/rehab
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943.02	Arson of a building or damage of any property by explosives (F)	Bar w/rehab
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943.03	Arson of property other than a building (F)	Bar w/rehab
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943.04	Arson with intent to defraud (F)	Bar w/rehab
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943.06	Molotov cocktails (F)	Bar w/rehab
943.10 (1)	Burglary (F)	Bar w/rehab
943.10 (2)	Burglary while armed (F)	Bar w/rehab
943.12	Possession of burglarious tools (F)	Bar w/rehab
943.20	Theft (F)	Bar w/rehab
943.201	Misappropriation of personal identifying information or documents (F)	Bar w/rehab
943.23	Operating motor vehicle without owner's consent - w/weapon and force (F)	Bar w/rehab
943.30	Threat to injure or accuse of crime (blackmail) (F)	Bar w/rehab
943.31	Threat to communicate derogatory information (F)	Bar w/rehab
943.32 (1)	Robbery (F) Bar w/rehab	
943.32 (2)	Robbery w/dangerous weapon (F)	Bar w/rehab
943.50	Retail theft (F)	Bar w/rehab

Chapter 944 - Crimes Against Sexual Morality

944.17	Sexual gratification (M)	Bar w/rehab
944.20	Lewd and lascivious behavior (M)	Bar w/rehab
944.205	Photos or other representations showing nudity (F)	Bar w/rehab
944.21	Obscene material or performance (F or M)	Bar w/rehab
944.23	Making lewd, obscene or indecent drawings (M)	Bar w/rehab
944.30	Prostitution (M)	Bar w/rehab
944.32	Soliciting prostitutes (F)	Bar w/rehab
944.33	Pandering (F or M)	Bar w/rehab
944.34	Keeping place of prostitution (F)	Bar w/rehab

Chapter 946 - Crimes Against Government and Its Administration

946.415	Failure to comply w/officer's attempt to take person into custody(F)	Bar w/rehab
946.42	Escape from custody (F)	Bar w/rehab
946.43	Assault by prisoner - confine or threaten to harm (F)	Bar w/rehab
946.44	Assisting/permitting escape (F)	Bar w/rehab
946.47	Harboring a felon (F)	Bar w/rehab

946.50	Absconding - juvenile (F)	Bar w/rehab
946.70	Impersonating peace officer to commit crime (F)	Bar w/rehab
946.74(1)	Aiding escape from mental institution (M)	Bar w/rehab
946.74(2)	Aiding escape from mental institution to commit sex crime (F)	Permanent bar
946.80 to 946.88	Racketeering (organized crime, RICO) (F)	Bar w/rehab

Chapter 947 - Crimes Against Public Peace, Order and Other Interests

947.013	Harassment (F)	Bar w/rehab
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Chapter 948 - Crimes Against Children

948.02 (1)	1st degree sexual assault of a child (F)	Permanent bar
948.02 (2)	2nd degree sexual assault of a child (F)	Bar w/rehab
	-- if person was, at the time of assault, more than 4 years older than the child	Permanent bar
948.02(3)	Sexual assault of a child - failure to act (F)	Permanent bar
948.025	Repeated acts of sexual assault of same child (F)	
	- if child was under the age of 13	Permanent bar
	- if child was age 13, 14 or 15 and person was, at the time, more than 4 years older than the child)	Bar w/rehab
	- other	Bar w/rehab
948.03 (2)(a)	Physical abuse of a child - intentionally causes great bodily harm (F)	Permanent bar
948.03(2)(b) or (c)	Physical abuse of a child-intentionally causes bodily harm	Bar w/rehab
948.03 (3)	Physical abuse of a child - recklessly causes bodily harm (F)	Bar w/rehab
948.03 (4)(a)	Physical abuse of a child involving great bodily harm - failure to act (F)	Permanent bar
948.03(4)(b)	Physical abuse of a child involving bodily harm failure to act (F)	Bar w/rehab
948.04	Causing mental harm to a child (F)	Permanent bar
948.05	Sexual exploitation of a child (F)	Permanent bar
948.055	Causing a child to view or listen to sexual activity (F)	Permanent bar
948.06	Incest with a child (F)	Permanent bar
948.07	Child enticement (F)	Permanent bar

948.08	Soliciting a child for prostitution (F)	Permanent bar
948.09	Sexual intercourse with a child age 16 or older (M)	Bar w/rehab
948.095	Sexual assault of student by a school staff person (F)	Bar w/rehab
948.10	Exposing genitals or pubic area (M)	Bar w/rehab
948.11	Exposing child to harmful material or harmful descriptions or narrations (F)	Permanent Bar
948.11	Exposing child to harmful material or harmful descriptions or narrations (M)	Bar w/rehab
948.12	Possession of child pornography (F)	Permanent bar
948.13	Child sex offender working with children (F)	Permanent bar
948.20	Abandonment of a child (F)	Bar w/rehab
948.21	Neglecting a child - intentional, resulting in death (F)	Permanent bar
948.21	Neglecting a child - intentional (M)	Bar w/rehab
948.22	Failure to support (F)	Bar w/rehab
948.23	Concealing death of a child (F)	Bar w/rehab
948.24	Unauthorized placement for adoption (F)	Bar w/rehab
948.30	Abduction or detention of another's child (F)	Permanent bar
948.31	Interference with custody by parent or others (F)	Bar w/rehab
948.35	Solicitation of a child to commit a felony (F)	Bar w/rehab
948.36	Use of a child to commit a class A felony (F)	Permanent bar
948.40	Contributing to the delinquency of a minor (F)	Bar w/rehab
948.51	Hazing (F)	Bar w/rehab
948.55	Leaving or storing a loaded firearm within the reach or easy access of a child (M)	Bar w/rehab
948.60	Possess dangerous weapon by a person under 18 (F)	Bar w/rehab
948.605 (3)	Discharge of firearm in a school zone (F)	Bar w/rehab
948.61	Possess dangerous weapon other than firearm on school premises (F)	Bar w/rehab
948.62	Receiving stolen property from a child (F)	Bar w/rehab
948. --	All other ch. 948 felonies	Bar w/rehab

Chapter 951 - Crimes Against Animals

951.02	Mistreating animals (F)	Bar w/rehab
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Chapter 961 -Controlled Substances (formerly ch. 161 crimes)

961.38	Practitioner "self-prescribing" (M)	Bar w/rehab
961. --	Manufacture, distribution or delivery of controlled substances (F)	Bar w/rehab
	Possession of controlled substances w/intent to manufacture, distribute or deliver (F)	Bar w/rehab
	Possession of a Schedule I or II controlled substance (F)	Bar w/rehab
	Possession of a controlled substance other than a Schedule I or II controlled substance (F)	Bar w/rehab
961.41(3g)(c)	Possession or attempted possession of cocaine (M)	Bar w/rehab
961.42	Keep/maintain any store, warehouse, building, etc. for use manufacture or delivery of controlled substances (M)	Bar w/rehab
961.43(1)(a)	Acquire or obtain possession of controlled substances by fraud, misrepresentation, forgery, deception or subterfuge (F)	Bar w/rehab
961.43(1)(b)	To possess/make a counterfeit substance or to duplicate the appearance, packaging, form or label of a controlled substance (F)	Bar w/rehab
961.455	Using a child for illegal drug distribution or manufacturing purposes (F)	Bar w/rehab
961.46	Distribution to persons under 18 (F)	Bar w/rehab
961.46	Distribution to persons under 18 (M)	Bar w/rehab
961.465	Distribution to prisoners (F or M)	Bar w/rehab
961.49	Distribution of or possession with intent to delivery at or near certain places (F)	Bar w/rehab
961.492	Distribution of or possession with intent to delivery on public transit (F)	Bar w/rehab
961.575	Delivery of drug paraphernalia to a minor (M)	Bar w/rehab

NOTE: A copy of the DWD or DHFS crimes tables may be obtained by calling the Office of Child Care at 608-266-9703 or by sending a written request to: Office of Child Care, P.O. Box 7935, Madison, WI 53707. In addition, the DHFS tables are posted by the Department of Health and Family Services at <http://www.dhfs.state.wi.us/caregiver/index.htm>.